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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,026	07/31/2003	Jay Lahti	P0011616.00	9661

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EXAMINER	
ALTER, ALYSSA MARGO	

ART UNIT	PAPER NUMBER
3762	

MAIL DATE	DELIVERY MODE
02/05/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/632,026	LAHTI ET AL.	
	Examiner	Art Unit	
	Alyssa M. Alter	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 November 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-17,19-33 and 35-52* is/are pending in the application.

4a) Of the above claim(s) *49-52* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-17,19-33 and 35-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *31 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

In view of the arguments filed on November 4, 2009, PROSECUTION IS HEREBY REOPENED. Upon further consideration, a new ground(s) of rejection is made in view of Lim (US 5,769,671) in view of Anscher et al. (US 4,566,660) as set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Carl H. Layno/

Supervisory Patent Examiner, Art Unit 3766.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent

and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1, 3-17, 19-33 and 35-48 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of copending Application No. 10/632058 (US Patent Publication 20050027327 A1). Although the conflicting claims are not identical, they are not patentably distinct from each other because both have a connector assembly for detachably connecting a lead to an implantable medical device, comprising a deflectable connector clip including a first arm, a second arm, the connector clip capable of being deflected from a first position corresponding to a first relative position of the first arm and the second arm to a second position corresponding to a second relative position of the first arm and the second arm; and a housing having a first member and a second member, the first member formed to be fixedly engaged with the second member to enclose the connector clip within the housing, wherein the connector clip is positioned within one of the first member and the second member.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

2. Claims 1, 3-17, 19-33 and 35-48 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-30 of copending Application No. 10/632028 (US Patent Publication 20050027326 A1). Although the conflicting claims are not identical, they are not patentably distinct from each other because both have a connector assembly for detachably connecting a lead to an implantable medical device, comprising a deflectable connector clip including a first arm, a second arm, the connector clip capable of being deflected from a first position corresponding to a first relative position of the first arm and the second arm to a second position corresponding to a second relative position of the first arm and the second arm; and a housing having a first member and a second member, the first member formed to be fixedly engaged with the second member to enclose the connector clip within the housing, wherein the connector clip is positioned within one of the first member and the second member.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1, 3-17, 19-33 and 35-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lim (US 5,769,671) in view of Anscher et al. (US 4,566,660). Lim discloses a connector spring is radially deflectable and used to compress and engage two axially orientated electrical conductors together within a housing. "The spring is a metallic member having a general square shape as defined by four opposed sides each connected by a corner portion interposed therebetween and facing the central axis, and the spring on each side thereof having deformed portions which extend inwardly beyond the respective side face thereof and toward the central axis"(col. 2. lines 34-39). In figure 5, the examiner considers the contact spring to be a clip with 23b as the first arm, 23d as the second arm and 23c as the top portion. Since the spring is a metallic spring used to enhance electrical contact, the spring is thus electrically conductive.

"The connector more specifically comprises an elongated housing extending along a central axis, the housing has a generally cylindrical opening extending coaxially with the central axis. The opening in the housing is defined by first and second cylindrical surfaces each defined by a first diameter. An annular radially directed gap is disposed within the opening and is disposed axially between the first and second cylindrical surfaces, with the annular gap extending radially outwardly from the axis and beyond each of the first and second cylindrical surfaces. The gap has a given width as measured along the axis extending in the direction parallel thereto. A contact spring is provided and has a generally closed shape and is of a width sufficient to be received within the gap and has portions thereof extending inwardly toward the axis and into the opening"(col. 2, lines 12-26). "The opening 10 in the housing 4 has an interrupted inner

surface as defined by concentric first and second axially spaced cylindrical inner surfaces 12 and 14, respectively, together defining an annular radially directed gap 16 therebetween"(col. 3, lines 21-25).

"The annular gap in the housing is defined by an annular shoulder formed in the inner surface of the housing, the shoulder defines one of the first and second surfaces of the first diameter and defining a stepped annular surface of a second diameter wider than the opening and a collar member received within the second diameter in abutment against the spring". The examiner considers the shoulder to be a support ridge.

As to the first, second and third positions and distances of the clip, "The sheet metal forming this spring 2 has a thickness of about 0.003 inches and is a generally closed shape member defined by opposed free ends 31 and 33, which in the relaxed condition, define a gap referenced in FIG. 5 as 29. In the assembled condition of the connector and before the lead is introduced into the opening 10, the free ends of the spring maintain a spacing of approximately 0.005 inch" (col. 4, lines 27-33). Lim discloses that the gap 29 is approximately 0.005 inch when placed in the housing, before the introduction of a lead. Therefore, the second position is at a distance of approximately 0.005 inch and a third position is at a larger distance after the insertion of a lead. The third position will inherently create a larger gap since that will enable the spring to compress the lead. As to a first position, the examiner considers the relax condition of the spring to be the first position.

As to claims 3-4, Lim discloses in col. 3, lines 14-17, "the connector housing is formed from a conductive material, namely, rolled stainless steel, and is electrically connected to the electrical components of the pulse generator".

Although Lim is silent about the location of the housing, the examiner considers Lim to disclose a connector block and port, since Lim discloses the use of the connector spring with implantable medical devices, such as pacemakers. It is well known that pacemakers often have connector blocks and connector ports to engage the medical leads. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the connection device as taught by Lim with a connector block and connector port since it was known in the art to employ connector blocks and ports in order to engage a medical lead into an implantable medical device.

Lim discloses the claimed invention except for the offset and partially overlapping free ends. Anscher et al. discloses an engagement clip with and without overlapping ends (see figures 4 and 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the free ends of the clip in Lim to overlap as taught by Anscher et al. in order to provide the predictable results of reinforcement to support and engage a lead.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Alter whose telephone number is (571)272-4939. The examiner can normally be reached on M-F 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carl H. Layno/
Supervisory Patent Examiner, Art Unit 3766

/Alyssa M Alter
Examiner
Art Unit 3762